

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.25331 OF 1999

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DATED: 21-08-2007

Between:

P. Mark

.. Petitioner

and

The District Cooperative Officer,
Nalgonda and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.25331 OF 1999

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ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents 2 to 4 in not allowing the petitioner to attend to his duties as Paid Secretary and not paying his salary from 01.05.1999 onwards and issuing the impugned memorandum, dated 31.07.1999, in Rc.No.634/99-B, as arbitrary and illegal; and consequently to direct the respondents to allow the petitioner to work as Paid Secretary and pay salary to him.

It appears, the petitioner was appointed as a Paid Secretary in Primary Agricultural Cooperative Society, Venkiryal of Bhongir Mandal, Nalgonda District in the year 1980. In the year 1987, as per Section 116-AA of the A.P. Cooperative Societies Act, 1964, decaderisation had taken place and under Rule 72 of the A.P. Cooperative Societies Rules, 1964, he was allotted to Primary Agricultural Cooperative Society, Mallapuram - 5th respondent herein. Though, initially, he was not permitted to join duty at 5th respondent Society, later he was permitted to join duty on the instructions of the 3rd respondent, vide letter dated 21-10-1987. But, after the strike initiated by the secretaries and employees of the State Cooperative Societies for a period of about 118 days was over, 5th respondent again did not permit him to join duty. However, after long persuasion, by an order, dated 08.04.1989, of the 3rd respondent, he was directed to join at Primary Agricultural Cooperative Society, Thummalaguda, but there also, he was not permitted to join duty. As such, he was temporarily deputed to Primary Agricultural Cooperative Society, Sarvaram- 4th

respondent, by order, dated 05.12.1997, of the 3rd respondent. While so, the grievance of the petitioner is that while he was continuing at 4th respondent Society, on 04.05.1999, he was told by the President of 4th respondent Society not to attend to duties and all the office records were obtained from him. From that day onwards he was not allowed to duties and not paid salary. Thereafter, on his representations, the impugned proceedings, dated 31.07.1999, were issued by the 2nd respondent stating that there were certain allegations against him and he was directed to approach the 3rd respondent in person and obtain suitable orders duly submitting his explanation. Though he approached the 3rd respondent in person, his case was not considered by him.

The 2nd and 4th respondents filed two separate counter affidavits denying the allegations made by the petitioner. It is asserted that since the petitioner was frequently absenting from duties, the Cooperative Sub Registrar was asked to enquire into the matter and, accordingly, the Cooperative Sub Registrar, after conducting an enquiry, submitted a report and, on the basis of the same, the petitioner was directed to approach the 3rd respondent personally, but the petitioner failed to do so.

Heard both sides.

Except the allegation of frequent absenteeism, no other allegation was made against the petitioner. May be, the petitioner absented from duties frequently without any leave or prior permission or intimation, but that does not mean that the respondents can do away with the services of the petitioner, without conducting any enquiry into the alleged misconduct of absenteeism or any other irregularity

committed by him. I am of the opinion that the respondents could not have kept the petitioner out of service with effect from 04.05.1999 without conducting any enquiry for any misconduct committed by him. Therefore, the impugned action of the respondents in keeping the petitioner out of employment from the year 1999, without conducting any enquiry, is arbitrary and illegal.

Accordingly, the writ petition is allowed holding that the petitioner is entitled for being reinstated into service forthwith. However, this will not preclude the respondents from conducting any enquiry into the alleged misconduct of absenteeism or any other misconduct committed by the petitioner and passing appropriate orders as per law. Further, if the respondents want to conduct any enquiry, it is open for them to pass orders suspending the petitioner from service with effect from 04.05.1999 and pay him the subsistence allowance as per his entitlement and then proceed with enquiry as per law.

C.V. RAMULU, J

21st August, 2007.

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